

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ALICE W. HUANG, CHRISTINE W. HUANG, AND STEVEN W. HUANG, INDIVIDUALLY AND DERIVATIVELY ON BEHALF OF TCBH, INC.

Plaintiffs,

V.

ALISON CHANG,

Defendant.

CIVIL ACTION NO. 4:20-CV-03306

PLAINTIFFS' MOTION FOR LEAVE TO AMEND THEIR PLEADINGS

JAMES HAMILTON FOLEY, PLLC

ATTORNEY-IN-CHARGE:

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ATTORNEY FOR PLAINTIFFS

**ALICE W. HUANG,
CHRISTINE W. HUANG, &
STEVEN W. HUANG,**

INDIVIDUALLY AND DERIVATIVELY ON BEHALF OF TCBH, INC.

March 23, 2021

TO THE HONORABLE JUDGE KENNETH M. HOYT:

Plaintiffs, Alice W. Huang, Christine W. Huang, and Steven W. Huang, individually and derivatively on behalf of TCBH, INC. (collectively, “Plaintiffs”), file this motion seeking leave to file the first amended complaint attached hereto as “Exhibit A.”

Fed. R. Civ. P. 15(a)(1) allows a party to “amend its pleadings as a matter of course” within “21 days after service of a motion under Rule 12(b).” Additionally, Fed. R. Civ. P. 15(a)(2) allows a party to amend their pleadings with leave of the court or the consent of the opposing party. “The court should freely give leave when justice so requires.” *Id.* Rule 15(a) provides a “strong presumption in favor of granting leave to amend.” *Fin. Acquisition Partners, LP v. Blackwell*, 440 F.3d 278, 291 (5th Cir.2006).

Defendant filed a motion on March 2, 2021 that included 12(b) motions. *See* Dkt. 10. Accordingly, Plaintiffs are entitled to amend their pleadings “a matter of course.” In the abundance of caution, Plaintiffs are seeking leave because the amended pleadings may deprive the court of subject-matter jurisdiction and the case would be subject to a potential remand. Plaintiffs have been forced to amend their pleadings because of Defendant’s motion. For instance, Defendant’s motion included a Rule 12(b)(7) motion to join TCBH, INC. as an indispensable party. Additionally, Plaintiffs are seeking to add the HUANG LIVING TRUST DATED FEBRUARY 22, 1992 as a plaintiff, which Plaintiffs were not able to add at the time of filing in state court. At the time of filing in state court, the former trustee of the HUANG LIVING TRUST DATED FEBRUARY 22, 1992 was alive and Plaintiffs did not have the authority to represent the trust. Since then, the former trustee is now deceased and Plaintiffs have complied with all necessary requirements to become trustees of the HUANG LIVING TRUST DATED FEBRUARY 22, 1992.

For the foregoing reasons, Plaintiffs respectfully request this Court grant Plaintiffs leave to amend their pleadings.

DATED: March 23, 2021

Respectfully submitted,

JAMES HAMILTON FOLEY, PLLC

By: /s/ James Hamilton Foley

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ATTORNEY-IN-CHARGE FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

I certify that I conferred via phone call with counsel for Alison Chang concerning this motion and counsel is opposed until he has had further opportunity to review.

/s/ James Hamilton Foley
James Hamilton Foley

CERTIFICATE OF SERVICE

I certify that on March 23, 2021, the foregoing has been served on all counsel of record electronically via the CM/ECF filing system.

/s/ James Hamilton Foley
James Hamilton Foley